

IN RE: Application of New Horizons
Communications Corp.

For a Certificate of Public Convenience and
Necessity to Provide Interexchange and
Local Exchange Telecommunications
Services and for local service offerings to
to be regulated in accordance with
procedures authorized for NewSouth
Communications in Order No. 98-165
in Docket No. 467-C; and for
interexchange service offerings to be
regulated in accordance with procedures
established for alternative regulation in
Order Nos. 95-1734 and 96-55 in
Docket No. 95-661-C.

This matter comes before the Public Service Commission of South Carolina ("Commission") by way of the Application of New Horizons Communications Corp. ("New Horizons", "Applicant" or "Company) for a Certificate of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services within the State of South Carolina (the "Application"). The Company's Application was filed pursuant to S.C. Code Ann. Sections 58-9-280 and 58-9-585, the Rules and Regulations of the Commission, and in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in Docket No. 467-C. The Company also asked for its interexchange service offerings to be subject to alternative regulation, pursuant to S.C. Code Ann. § 58-9-585 (Supp. 2013), as was first

granted by the Commission in Order Nos. 95-1734 and 96-55 issued in Docket No. 95-661-C as modified by Order No. 200 1-997 in Docket No. 2000-407-C and certain waivers of the Commission's Regulations.

By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in a newspaper of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was filed by the South Carolina Telephone Coalition ("SCTC"). Subsequently, counsel for SCTC filed with the Commission a Stipulation. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. A copy of the Stipulation is attached as Order Exhibit 1.

On January 27, 2014, counsel for the South Carolina Office of Regulatory Staff ("ORS") filed a letter with the Commission setting out that it had reviewed the Application and did not oppose the Commission granting the Application. The ORS also sought to be permitted to be excused from the hearing in the Docket. The Applicant did not object to the ORS request. The Hearing Officer granted the ORS request be excused from the hearing by Directive dated January 28, 2014. The ORS correspondence of January 27, 2014 is attached as Order Exhibit 2.

A hearing was commenced on February 24, 2014, at 10:00 a.m., at the Commission's offices. The Honorable David Butler, Hearing Officer, presided. Scott Elliott, Esquire,

represented the Company. Glen Nelson, Vice President of the Applicant, appeared and testified in support of the Application.

According to the record, New Horizons is a Delaware corporation. Mr. Nelson testified that the Applicant is seeking certification in South Carolina. The Applicant has received authority from the South Carolina Secretary of State to transact business within the State of South Carolina. New Horizons seeks authority to provide interconnected voice over internet protocol ("IVoIP") telecommunication services throughout the State of South Carolina. As set out in the record, New Horizons will offer interexchange service to business customers throughout the state and provide local exchange service to customers located in non-rural local exchange carriers' service areas of South Carolina.

New Horizons intends to offer interexchange service to business customers throughout the state. Applicant seeks authority to resell and provide through its own or leased facilities local exchange services throughout the State primarily in the areas served by AT&T. Applicant's local calling areas initially will coincide with the incumbent local exchange carrier's local calling areas. Upon its entry into the South Carolina market, Applicant may install equipment for the provision of local exchange services. Applicant may use the following or a similar configuration of equipment: Applicant will provide voice and high speed data services through a combination of the latest technology (including IVoIP technology), switching, and transport media. The switching system will consist of a central processing and control complex capable of interconnection as a peer to the incumbent as well as competitive local exchange companies. The hub portion of the switch will interconnect with the public switched network on Signaling System 7 ("SS7") or Feature Group D ("FGD") facilities. The system's remote module capability will allow properties to be served in a manner that provides the exchange of appropriate

signaling, control and calling/caller information to the network in accordance with network standards and specifications. Additionally, these services may be delivered over a combination of delivery mechanisms through incumbent local carriers' unbundled loop network, both copper and fiber and transport networks, as well as via Applicant constructed facilities. Its services will be available on a full-time basis, twenty-four hours a day, seven days a week, to customers within the geographic boundaries of the State of South Carolina. Customers will be billed by Applicant. Applicant is committed to providing access to a local operator, directory assistance, 911 services, and dual party relay services. Applicant is also willing to accept its obligations to collect Universal Service Fund, 911, and dual party relay service surcharges from its local exchange customers, and to remit those funds to the appropriate authorities.

Mr. Nelson also testified that while New Horizons had never marketed its services in South Carolina, it had come to his attention that the Applicant had realized revenue from national clients with South Carolina locations from regulated and unregulated sources. New Horizons has paid all necessary taxes on this revenue and has informed the ORS of this revenue.

Mr. Nelson finally testified that granting New Horizons' Application will provide South Carolinians increased choice, improved quality of service and heightened opportunities to obtain improved technology that will further increase telecommunications competition in the State of South Carolina. He opined that the Commission's granting of the Application is therefore in the public interest.

Mr. Nelson stated that the Company will abide by all applicable Commission rules, regulations, and orders upon the Company receiving certification to provide intrastate interexchange and local exchange telecommunications service in South Carolina.

During the hearing, the Hearing Officer raised questions concerning the name by which the Applicant sought to do business in South Carolina. Mr. Nelson informed the Hearing Officer that the Applicant would intend to do business as New Horizon Communications Corp. and that the Applicant would submit its request to the Commission for authority to do business as New Horizon Communications Corp. In addition, Mr. Nelson informed the Hearing Officer that the Applicant would submit a statement from its auditors confirming that the independent review of the Applicant's financial statements was indeed a review of the financial statements of New Horizons Communications Corp and to submit amended biographies of key officers conforming to the legal name of the Applicant. The Applicant supplied the Commission with all supplemental evidence requested and has now sought authority to do business as New Horizon Communications Corp.

The Applicant has requested certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA"), since it will maintain its books in accordance with Generally Accepted Accounting Principles ("GAAP"). Additionally, the Company seeks a waiver of 10 S.C. Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. The Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's CLEC databases into the master customer database of the local exchange carrier. The Applicant also requested that the Company be granted a waiver of 10 S.C. Code Ann. Regs. 103-610 so that the Company be permitted to maintain its records outside of South Carolina. The Company wishes to maintain its books and records in its principal place of business. Last, New Horizons testified that since the Applicant's local exchange calling

areas will initially mirror the service area of the incumbent local exchange carriers, the Applicant requested a waiver of the map filing requirement of 10 S.C. Code Ann. Regs. 103-612.2.3 and 103-631.

After full consideration of the applicable law, the Company's Application, and the evidence of record presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Company is a duly organized corporation which exists under the laws of the State of Delaware and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. The Company may use state-of-the-art technology, including IVoIP technology, to provide its local exchange and interexchange telecommunications services in South Carolina.

4. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1).

5. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3).

6. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4).

7. The Commission finds that the services to be provided by the Company, regardless of the technology used to provide those services, will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2).

8. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest”. S.C. Code Ann. Section 58-9-280 (B) (5).

9. Following execution of the Stipulation with the SCTC, the SCTC withdrew its opposition to the Application.

10. The ORS was permitted to be excused from the hearing and the fact that it did not oppose granting the application herein is duly noted.

11. The Commission finds, that the Company possesses sufficient financial resources to provide the services described in its Application and testimony.¹².. The Applicant does business as New Horizon Communications Corp.

CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service.”

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will comply with required surcharges for 911 and dual party relay service, and remit those funds to the appropriate authorities.

5. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

6. The Commission concludes that the Company's provision of service using IVoIP technology does not, in any way, change or diminish the Commission's authority to regulate the Company in accordance with state law.

7. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

8. Based on the above findings of fact and conclusions of law, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services. In addition, the Company is granted authority to provide intrastate interexchange services.

9. The terms of the Stipulation between the Company and SCTC are approved and adopted as a part of this Order. Any proposal to provide local telecommunications service to rural service areas, regardless of the technology employed, is therefore subject to the terms of the Stipulation.

10. The Commission concludes the Company's local exchange telecommunications services, regardless of the technology employed, shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

11. The Commission concludes that the company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings setout in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers who request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

12. We conclude that the Applicant's request for waiver of 10 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. Last, we grant waivers of 10 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory, and 10 S.C. Code Ann. Regs. 106-631, which requires publication of directories.

13. If at such time New Horizons offers retail residential local exchange service, the Company shall comply with 10 S.C. Code Ann. Regs. 103-607 (2013) and Commission's Orders pertaining bond requirements.

14. New Horizons shall comply with the verification regulations governing change of preferred carriers as established by FCC.

15. New Horizons shall comply with S.C. Code Ann. § 58-9-300 (Supp. 2013) entitled "Abandonment of Service." Additionally, to the extent applicable, New Horizons agrees to adhere to the FCC's Rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

16. The Applicant is authorized to conduct business in South Carolina as New Horizon Communications Corp.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to New Horizons to provide competitive local exchange telecommunications services and interexchange telecommunications services, on a facilities-based or resold basis, specifically including through the use of VoIP technology.
2. The terms of the Stipulation between the Company and the SCTC are approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.
3. The Company shall file, if it has not already done so by the date of issuance of this Order, its revised local tariffs. The revised tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order and agreements with other parties to this case. The revised tariffs shall be consistent with the Commission's Rules and Regulations, and shall be filed as stated within 30 days of receipt of this Order.
4. New Horizons is required to comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a 911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the

citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order as Order Exhibit 3 is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, the Applicant is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

5. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of South Carolina specific information. Therefore, the Company shall keep financial records on its South Carolina operations to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website or at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1st.

6. Commission gross receipts forms are due to be filed no later than August 31st of each year. The proper form for filing gross receipts information can be found at the ORS website www.regulatorystaff.sc.gov and the appropriate form is entitled "Gross Receipts Form."

7. Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The State USF worksheet is due to be filed annually no later than July 1st with the ORS.

8. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at www.regulatorystaff.sc.gov. This form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced. If the Company changes or modifies its name, the Company shall file such changes with the Commission for approval.

9. The Company shall conduct its business in compliance with Commission decisions and orders, both past and future.

10. The Company is granted a waiver of 10 S.C. Code Ann. Regs. 103-610 requiring the Company to maintain its financial books and records within the State of South Carolina. As a condition of being granted a waiver of the requirement to maintain corporate books and records

within the State of South Carolina, the Company shall make such books and records available, at the Company's expense, to the Office of Regulatory Staff upon request. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). Last, the Commission grants the Applicant's request for the waiver of the requirement that it file a map of its service territory as required by 10 S.C. Code Ann. Regs. 103-612.2.3 and the publication of directories as required by 10 S.C. Code Ann. Regs. 103-631. The Company is directed to comply with all Rules and Regulations of the Commission, unless the Commission specifically waives compliance with a regulation.

11. The Commission adopts a rate design for the Company's residential interexchange services which include maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

12. The Company shall not adjust its residential interexchange rates for end users below the approved maximum level without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking

proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 2013).

13. The Commission determines that the Company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings setout in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing.

14. The Commission also determines that the Company's local exchange telecommunications services shall be regulated in accordance with the principles and Procedures established for flexible regulation first granted to NewSouth Communications by Order No. 1998-165 in Docket No. 97-467-C.

15. The Applicant is authorized to conduct business in South Carolina as New Horizon Communications Corp.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

G. O'Neal Hamilton, Chairman

ATTEST:

Nikiya "Nikki" Hall, Vice Chairman

(SEAL)